REMARKS

Claims 1-6, 9, 11, 13 and 15 have been cancelled. Claims 10, 12, 14 and 16-41 have been withdrawn from consideration previously. In view of the amendments above, claims 7 and 8 are now pending.

Claim Rejections - 35 U.S.C. § 102

Claims 1-6, 9, 11, 13 and 15 were rejected under 35 U.S.C. § 102. The rejection of the claims under 35 U.S.C. § 102 has been obviated by appropriate amendment. Claims 1-6, 9, 11, 13 and 15 have been cancelled without prejudice to their prosecution in a Continuation or Divisional application.

Claim Rejections – Obviousness-Type Double Patenting

Claims 1, 7, 8 and 9 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting in view of a co-pending patent application. The Office Action refers to this application only by the Attorney Docket No. of 11302-0900. The Office Action asserts that the claims of Attorney Docket No. 11302-0900 claim essentially the same polymer as claims 1, 7, 8 and 9 of the present application, except for a "fourth component" in the claims of the asserted application.

The rejection of the claims under the judicially created doctrine of obviousness-type double patenting is respectfully traversed. Applicants point out that the co-pending application on which the rejection is based has not been identified in sufficient detail to allow a proper response. The Attorney Docket No. 11302-0900 does not correlate with any pending applications known to Applicants' representatives. Telephone messages were exchanged between Applicants' representative and Examiner Zalukaeva on August 20, 2002; however, it has still not been established which application has been cited against the pending claims.

Applicants hereby request the Examiner to provide proper identification for the co-pending application, identified to date only as "Docket No. 11302-0900." Without proper and correct identification of the co-pending application, Applicants are unable to submit appropriate amendments, arguments, and/or terminal disclaimers to address the rejection. Applicants also request that the Examiner clarify which claims of the conflicting application have been asserted. The first sentence of section 9 on page 8 of the Office Action cites claims 1, 6 and 13 of Attorney Docket No. 11302-0900; whereas the second sentence of this section cites claim 8 of Attorney Docket No. 11302-0900.

Moreover, MPEP § 804(II)(B)(1.) notes that:

> Any obviousness-type double patenting rejection should make clear:
>
> (A) The differences between the inventions defined in the conflicting claims – a claim in the patent [*application*] compared to a claim in the application; and
>
> (B) The reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim in issue is an obvious variation of the invention defined in a claim in the patent [*application*]. [emphasis and parentheticals added]

It is respectfully noted out that the conclusory statements regarding the essential similarity of the conflicting claims are insufficient to establish a *prima facie* case of obviousness between the two sets of claims. Applicants hereby request the Examiner to point out clearly the differences between the pending claims and the claims of the conflicting application and to provide reasoning on the record regarding why the pending claims would be obvious over the claims of the conflicting application.

CONCLUSION

In conclusion, all of the grounds raised in the outstanding Office Action for rejecting the application are believed to be overcome or rendered moot based on the amendment and remarks above. Thus, it is respectfully submitted that all of the presently presented claims are in form for allowance, and such action is requested in

due course. Also submitted at this time is a Petition for Extension of Time for the Third Month (months 1 and 2 have been previously paid).

Respectfully submitted,

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